

**BEFORE THE  
U.S. DEPARTMENT OF ENERGY  
Washington, D.C. 20585**

In the Matter of:

**Hydac Technology Corporation**  
(electric motors)

Case Number: 2012-SE-4107

**NOTICE OF PROPOSED CIVIL PENALTY**

Date issued: November 19, 2012

Number of alleged violations: **9055**

Maximum possible assessment: **\$996,050**

Proposed civil penalty: **\$164,945**

The U.S. Department of Energy ("DOE") Office of the General Counsel, Office of Enforcement, alleges that Hydac Technology Corporation ("Hydac") has violated certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.* ("the Act"), and 10 C.F.R. Part 431, Subparts B and U.

Specifically, DOE alleges:

1. Hydac has manufactured<sup>1</sup> a variety of electric motors.
2. Hydac had distributed for at least 365 days, and continues to distribute, electric motors in commerce in the U.S.
3. Hydac failed to certify that the following 23 basic models<sup>2</sup> of electric motors they manufactured met the applicable energy conservation standards before distribution of the basic model in U.S. commerce as required by 10 C.F.R. § 431.36.

00600429	92582100	06003604	06025608
00600430	02582215	06006001	06089937
00609076	02583412	06007163	06095999
721177/6096178	02586331	06007164/06013629	06096007
02506546	030690951	06017272	00617449
02581846	03077129	06021481	

<sup>1</sup> "Manufacture" means to manufacture, produce, assemble or import. 42 U.S.C. §§ 6291(10), 6311(7).

<sup>2</sup> Each basic model is identified by its Hydac part number.

4. These 23 basic models of electric motors are “covered equipment” as defined in 10 C.F.R. § 431.2.
5. Failure to certify basic models of electric motors as required by 10 C.F.R. § 431.36 is a prohibited act pursuant to 10 C.F.R. § 431.382(a)(3) and is subject to civil penalties as described in 10 C.F.R. § 431.382(b).
6. Hydac distributed in U.S. commerce five basic models of electric motors that failed to meet the applicable energy conservation standards found in 10 C.F.R. § 431.25. These basic models are listed in the table below. Hydac distributed 53 total units of these five basic models.

Part Number	Basic Model Number	Number of Units
02582100	TFC 90L-6	18
02582215	FC90L-4	3
02586331	PF 112M/6p-11	13
06007164/06013629	FCP112M-6	12
06095999	NF90L/6C-11S+E2/0701	7

7. A manufacturer’s distribution in U.S. commerce of basic models of electric motors that do not comply with the energy conservation standards found in 10 C.F.R. § 431.25 constitutes a prohibited act pursuant to 10 C.F.R. § 431.382(a)(7) and is subject to civil penalties as described in 10 C.F.R. § 431.382(b).
8. Hydac distributed in U.S. commerce 607 total units of several basic models of electric motors that did not have the motor’s nominal full load efficiency marked on the motor nameplate as required by 10 C.F.R. § 431.31(a)(i).
9. A manufacturer’s distribution in U.S. commerce of basic models of electric motors that are not labeled in accordance with 10 C.F.R. § 431.31(a)(i) constitutes a prohibited act pursuant to 10 C.F.R. § 431.382(a)(1) and is subject to civil penalties as described in 10 C.F.R. § 431.382(b).

**The following information is provided in question and answer format to help explain your legal obligations and options.**

*What do I do now?*

DOE is offering a settlement of **\$29,000** if you submit the signed Compromise Agreement within thirty (30) days of the date of this Notice. As part of that settlement, you must pay the fine within thirty (30) days of the date of issuance of an order adopting the agreement (“Adopting

Order”) and must provide a sworn statement that you will no longer distribute in U.S. commerce the units of the basic models that have not been certified.

If you do not choose to settle the case, DOE may seek the **maximum penalty (\$996,050)** authorized by law. You have other options as described below.

*What are my other options?*

If you do **not** agree to DOE’s settlement offer, you must select Option 1 or Option 2, below, within thirty (30) calendar days.

Option 1: You may elect to have DOE issue an order assessing a civil penalty. Failure to pay the assessed penalty within sixty (60) calendar days of the order assessing such penalty will result in referral of the case to a U.S. District Court for an order affirming the assessment of the civil penalty. The District Court has the authority to review the law and the facts *de novo*.

Option 2: You may elect to have DOE refer this matter to an Administrative Law Judge (“ALJ”) for an agency hearing on the record. Upon a finding of violation by the ALJ, DOE will issue an order assessing a civil penalty. This order may be appealed to the appropriate U.S. Court of Appeals.

*When must I respond?*

You must submit the signed Compromise Agreement within thirty (30) calendar days of the date of this Notice to pay the **lowest fine (\$29,000)**. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE of your selection of Option 1 within thirty (30) calendar days of the date of this Notice. Otherwise, if you do not settle the case, DOE will refer the case to an ALJ as described in Option 2.

*How should I submit my response?*

To assure timely receipt, DOE strongly encourages you to submit your response by e-mail. DOE accepts scanned images of signed documents (such as PDFs). Responses may be sent by any of the following methods:

By email to: [douglas.rawald@hq.doe.gov](mailto:douglas.rawald@hq.doe.gov)

By fax to: (202) 586-3274

By FedEx to: Doug Rawald  
U.S. Department of Energy  
Office of the General Counsel (GC-32)  
1000 Independence Ave., SW  
Washington, DC 20585

*What happens if I fail to respond?*

If you fail to respond within thirty (30) calendar days of the date of this Notice, or by the time of any extension granted by DOE, DOE will refer the case to an ALJ for a full administrative hearing (Option 2, above).

*What should I include in my response?*

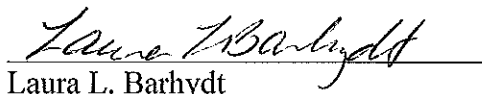
- 1) If you wish to accept DOE's settlement offer, you should submit the signed Compromise Agreement (which is enclosed). If you do not wish to accept DOE's settlement offer, you should specify if you wish to elect Option 1; otherwise, DOE will proceed with Option 2, as described above.
- 2) Provide your Taxpayer Identification Number (TIN). The Debt Collection Improvement Act ("DCIA") requires all federal agencies to obtain the TIN in any case that may give rise to a debt to the government.

*How did you calculate the maximum possible assessment?*

Federal law sets a maximum civil penalty for each day you fail to submit to DOE the required information for a covered product. By regulation, you must submit a certification report for each basic model. Therefore, your maximum penalty is calculated based on each day you distributed each basic model in commerce in the U.S. without having submitted a valid certification report. In the maximum penalty calculation in this Notice, DOE assumes that each basic model has been in distribution in the United States for at least 365 days. DOE is not pursuing violations more than one (1) year old at this time. DOE may pursue violations dating from December 18, 2010, the effective date for the current energy conservation standards for electric motors, if the case goes to hearing. The maximum penalty is \$110 per day. 10 C.F.R. § 431.382(b).

Federal law also sets a maximum civil penalty for each unit you distributed in U.S. commerce that was noncompliant with federal energy conservation standards or not labeled in accordance with federal regulations. Your maximum penalty for standards and labeling violations is therefore calculated based on each noncompliant or improperly labeled unit you manufactured and distributed in U.S. commerce. The maximum civil penalty is \$110 per unit. 10 C.F.R. § 431.382(b).

Issued by:

  
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Assistant General Counsel for  
Enforcement